

Advisory Action

Application No.

09/688,989

Applicant(s)

TSUNASHIMA ET AL.

Examiner

Steven H. Rao

Art Unit

2814

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

THE REPLY FILED 13 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 27, 28 and 30-33.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: See Continuation Sheet

Continuation of 10. Other: Applicants' contention that Kume's figure 15 does not show a sidewall of the first gate electrode is connected to a sidewall of the second gate electrode is not persuasive because Kume fig. 15 and col. 12 lines 48-61 clearly shows them to be connected. Further the cited col. 12 clearly describes that film 17 is etched to form the floating gate in memory transistor are only and that film 17 is left as they are (intact) in the first and second peripheral areas to form the connection between the devices) floating gate in memory area with the devices (gates) in the first and second peripheral areas. Further Kume in figs. 7,9,11,14 show #21 above elements 18,19 and 20 (all of which are above gate 17) . Secondly Applicants' contention that Kume figures 7,9,11 and 15 allegedly do not describe a completed device itself is not persuasive because it is well settled that things clearly shown in reference patent drawings qualify as prior art enabling teachings , irrespective of whether they (structures shown in the drawings) are completed device or not . Applicants' contention with respect to claim 28 , to the extent understood, is not persuasive, as Kume shows side insulating films 18,19,20 perpendicular to 40 which is parallel to substrate 11 , therefore 18,19,20 are perpendicular to surface of substrate 11. Therefore all of Applicants' contention are not persuasive and all pending claims (27,28 30-33) are finally rejected .

BR
1/26/05

LONG PHAM
PRIMARY EXAMINER